

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 3:22-cr-132

vs.

BENJAMIN EDWARD LUCAS,

District Judge Michael J. Newman

Defendant.

**ORDER SCHEDULING THE ORAL ARGUMENT AND LIMITED EVIDENTIARY
HEARING ON DEFENDANT’S MOTIONS TO SUPPRESS (Doc. Nos. 22, 23) TO TAKE
PLACE ON APRIL 11, 2023 AT 10:00 AM IN COURTROOM 4**

This criminal case is before the Court on Defendant Benjamin Edward Lucas’s motions to suppress (Doc. Nos. 22, 23). In those motions, Defendant requested an oral hearing. *Id.* In the parties’ subsequently-filed joint status report, they requested an evidentiary hearing on Defendant’s motions to suppress. Doc. No. 27.

The Court finds that Defendant is only entitled to an evidentiary hearing regarding one issue raised in the motions to suppress—whether the applicable search warrants were improperly executed because they were executed after the deadline for execution. *See* Doc. No. 22 at PageID 80, 82–83; Doc. No. 23 at PageID 90, 92–93; *see also United States v. Abboud*, 438 F.3d 554, 577 (6th Cir. 2006) (“An evidentiary hearing is required ‘only if the motion is sufficiently definite, specific, detailed, and non-conjectural to enable the court to conclude that contested issues of fact going to the validity of the search are in question’” (quoting *United States v. Downs*, 173 F.3d 430 (Table), No. 96–3862, 1999 WL 130786, at *3 (6th Cir. Jan. 19, 1999))).

The other issues Defendant raised—no probable cause; stale and remote facts (*see* Doc.

No. 22, 23)—are objections to legal conclusions and do not require an evidentiary hearing. *See United States v. Goodwin*, 552 F. App'x 541, 548 (6th Cir. 2014) (finding that the magistrate judge's decisions regarding the sufficiency of the evidence justifying a warrant were legal conclusions and, therefore, objections to those conclusions, without new factual information, did not warrant an evidentiary hearing).

Thus, the Court **SCHEDULES** an oral argument (regarding all issues raised) and an evidentiary hearing (limited to the issue of whether the search warrants were improperly executed) on Defendant's motions for **April 11, 2023** at 10:00 AM in Courtroom 4.

IT IS SO ORDERED.

April 3, 2023

s/Michael J. Newman
Hon. Michael J. Newman
United States District Judge